

## U.S. Department of Justice



United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

Application GRANTED in part. By December 8, 2021, Plaintiffs shall file proof of service of the Complaint. The conference scheduled for December 2, 2021, is ADJOURNED to December 16, 2021, at 10:40 a.m.

**VIA ECF**

The Honorable Lorna G. Schofield  
United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square, Room 415  
New York, NY 10007-1312

Dated: December 1, 2021  
New York, New York

  
LORNA G. SCHOFIELD  
UNITED STATES DISTRICT JUDGE

Re: Mohammed, et al. v. United States Dept. of Agriculture, Food and Nutrition Svc.,  
21-cv-6844 (LGS)

Dear Judge Schofield:

This Office represents defendant United States Department of Agriculture, Food and Nutrition Service (“Defendant” or “United States”) in the above-referenced action in which plaintiffs Rashad Lutf Ahmed Mohammed and 1902 New Way Gourmet Inc. (“Plaintiffs”) challenge their six-month disqualification from the federal Supplemental Nutrition Assistance Program (“SNAP”). I write to respectfully request an adjournment of the initial conference and an order dismissing this case without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure if the United States is not served within one week.

Plaintiffs filed the complaint on August 13, 2021. ECF No. 1. To date, Plaintiffs have not requested issuance of a summons and have not served process on the United States. As it has been more than 90 days since Plaintiffs filed the complaint, this case is subject to dismissal without prejudice under Rule 4(m). Fed. R. Civ. P. 4(m) (process must be served within 90 days of filing the complaint).

Plaintiffs have had ample notice of their responsibility to obtain a summons and effect proper service. On October 21, 2021, counsel jointly requested an adjournment of the initial conference, which had been previously scheduled for October 28, 2021, specifically to permit Plaintiffs time to effect proper service. ECF No. 13. The Court granted that request, adjourning the initial conference to December 2, 2021. Order dated October 22, 2021 (ECF No. 14). Nevertheless, Plaintiffs have still failed to request issuance of a summons or serve the United States. As such, the United States’ time to respond to the complaint has not yet commenced.

In light of these circumstances, the United States respectfully requests that the Court enter an Order that it will dismiss this action without prejudice pursuant to Rule 4(m) if proper service is not made within one week. In the event this action is not dismissed, the United States respectfully requests an adjournment of the initial conference *sine die*, as the United States intends to move to dismiss the complaint for failure to exhaust administrative remedies. If served, the United States will file a pre-motion letter in accordance with Paragraphs III.A.1 and III.C.2 of the Court’s Individual Rules and Procedures for Civil Cases.

I thank the Court for its consideration of this matter.

Respectfully,

DAMIAN WILLIAMS  
United States Attorney for the  
Southern District of New York

By: /s/ Carly Weinreb  
CARLY WEINREB  
Assistant United States Attorney  
86 Chambers Street, Third Floor  
New York, NY 10007  
Tel: (212) 637-2769  
[Carly.Weinreb@usdoj.gov](mailto:Carly.Weinreb@usdoj.gov)  
*Counsel for Defendant*

Cc: Joseph A. Bahgat, Esq., *Counsel for Plaintiffs* (by ECF)